

FEDERAL REGISTER  
VOL. 58, No. 28

Notices

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL-4594-2]

Additional Information on Wastes Studied in the Report to Congress on Wastes  
From the Combustion of Coal by Electric Utility Power Plants

58 FR 8273

DATE: Friday, February 12, 1993

ACTION: Notice of data and information availability and request for comments.

SUMMARY: This notice announces the availability for public inspection and comment, of information that may be used in making a final regulatory determination on four large-volume fossil fuel combustion (FFC) waste streams -- fly ash, bottom ash, boiler slag, and flue gas emission control waste -- studied in the Agency's February 1988, Report to Congress on Wastes from the Combustion of Coal by Electric Utility Power Plants. By August 2, 1993, EPA will make a final regulatory determination on whether some or all of these waste streams should be subject to regulation as hazardous wastes under subtitle C of the Resource Conservation and Recovery Act (RCRA).

DATES: Public comments on the additional information will be accepted through March 29, 1993.

ADDRESSES: Those persons, companies or organizations intending to submit comments for the record must send an original and two copies to the following address: RCRA Docket Information [\*8274] Center (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Please place the docket number F-93-FFCA-FFFFF on your comments.

The additional information is available for public inspection at the RCRA docket, 401 M Street, SW., Washington, DC, Room M2427, 2nd floor, Waterside Mall. Docket hours are 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. In order to view the docket, please call (202) 260-9327 to make an appointment. Comments on the new information will be accepted through March 29, 1993.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424-9346 or (202) 260-3000; for technical information contact Patti Whiting (OS-323W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8421.

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## SUPPLEMENTARY INFORMATION:

## I. Background

RCRA section 3001(b)(3) (hereafter referred to as the Bevill Exemption) exempts "fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels" from regulation as hazardous wastes under RCRA subtitle C, pending completion of a Report to Congress and a subsequent regulatory determination of whether such regulation is warranted. In particular, section 8002(n) of RCRA requires EPA to conduct a detailed and comprehensive study and submit a Report to Congress on the adverse effects on human health and the environment, if any, of the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproduct materials generated primarily from the combustion of coal or other fossil fuels. Factors to be considered include:

- (1) The source and volumes of such material generated per year;
- (2) Present disposal and utilization practices;
- (3) Potential danger, if any, to human health and the environment from the disposal and reuse of such materials;
- (4) Documented cases in which danger to human health or the environment from surface runoff or leachate has been proved;
- (5) Alternatives to current disposal practices;
- (6) The costs of such alternatives;
- (7) The impact of those alternatives on the use of coal and other natural resources; and
- (8) The current and potential utilization of such materials.

RCRA section 3001(b)(3)(C) then requires that a regulatory determination be completed within six months of the date of submission of the Report to Congress.

Based on this mandate, the Agency conducted a study of fossil fuel wastes generated from coal-fired electric utility power plants and prepared the following report: The Report to Congress on Wastes from the Combustion of Coal by Electric Utility Power Plants (hereafter referred to as the "RTC"), released in February, 1988. This report contains detailed studies of the four waste streams listed above, as well as some data on other waste streams (typically generated in lower volumes) produced by coal-fired electric utilities. In the report, the Agency tentatively recommended that the four large-volume wastes remain permanently exempt from Subtitle C regulation. Public comments were received on the Report to Congress and a public hearing was held. The public comments and the hearing transcript are available for public inspection at the

RCRA docket (docket number TATAF-88-PATA).

Because of other priorities, the Agency did not publish the regulatory determination for those wastes. As a result, a suit was filed by Frank Gearhart on behalf of the Bull Run Coalition (an Oregon citizens group), and the Edison

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Electric Institute intervened as plaintiffs. On June 30, 1992, the Agency entered into a Consent Decree that established a schedule for the Agency to complete the regulatory determinations for all fossil fuel combustion (FFC) wastes. 1 n The Consent Decree divides FFC wastes into two categories: (1) Fly ash, bottom ash, boiler slag, and flue gas emission control waste (hereafter referred to as flue gas desulfurization (FGD) sludge) from the combustion of coal by electric utilities, and (2) all remaining FFC wastes. Separate schedules are provided in the Consent Decree for each category.

n 1 Gearhart v. Reilly, No. 91-2435 (GAG), (D.D.C.)

In accordance with the requirements of the Consent Decree, the Agency notified the interested parties that a regulatory determination for fly ash, bottom ash, slag, and FGD sludge from the combustion of coal would be finalized by August 2, 1993. For the remaining FFC wastes, the Agency indicated that further study was required and that a regulatory determination would be completed for these wastes by April 1, 1998.

## II. Additional Information

To update and supplement the information included in the 1988 RTC on fly and bottom ash, slag, and FGD sludge, the Agency has undertaken several information collection efforts. Publicly available information has been obtained from various EPA offices and other Federal agencies, State agencies, and the electric utilities industry. In addition, literature searches were performed to identify recently published materials on fly and bottom ash, slag, and FGD sludge generated by coal-fired utilities. The materials collected regarding these wastes specifically address: assessments of coal-fired electric utilities operations (as they affect waste generation), waste volumes and characteristics, waste management practices, environmental monitoring, and environmental impacts. The Agency is also making available the methodology which may be used in making the final regulatory determination. This three-step analytical approach was recently used in making the June 13, 1991 regulatory determination for mineral processing special wastes.

Because this new information may be utilized in the regulatory decision-making process for fly and bottom ash, slag, and FGD sludge, it is being placed into the RCRA docket for public inspection and comment. For all readers to clearly distinguish this new information, it has been placed under a new docket number: F-93-FFCA-FFFFF.

A complete list of all new information placed in the docket is available from the RCRA Docket at the address and telephone number listed above. The new information includes:

-- The Consent Decree dated June 30, 1992; the Decision Memorandum establishing August 2, 1993, and April 1, 1998, as the deadlines for completion of the regulatory determinations; and the notification letters sent to interested parties.

-- Published and unpublished materials obtained from State and Federal agencies, utilities and trade industry groups, and other knowledgeable parties on the volumes and characteristics of fly and bottom ash, slag, and FGD sludge.

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-- Published and unpublished materials on management practices (including co-disposal and utilization) associated with fly and bottom ash, slag, and FGD sludge.

-- Published and unpublished materials on the potential environmental impacts associated with [\*8275] fly and bottom ash, slag, and FGD sludge management.

-- Published and unpublished materials on trends in utility plant operations that may impact waste volumes and characteristics. Specific information was sought on innovations in scrubber use and the potential impacts of the 1990 Clean Air Act Amendments on waste volumes and characteristics.

-- 1990 Energy Information Agency (EIA) data on utility operations and waste generation obtained from EIA's Form 767 database. These data are submitted to EIA annually by electric utilities.

-- Site visit reports and accompanying facility submittals for five power plants visited by EPA during the fall of 1992.

-- Materials obtained from public files maintained by State regulatory agencies in Virginia, North Dakota, Wisconsin, Texas, Indiana, Colorado, Wisconsin, Ohio, and Pennsylvania. These materials focus on waste characterization and environmental monitoring data, along with supporting background information.

-- Methodology for making the Regulatory Determination. The Agency intends to follow the basic three-step analytical approach used in making the June 13, 1991 regulatory determination for mineral processing special wastes.

The Agency solicits comments on the information sources identified in this Notice. All comments on the new information received by the close of the comment period will be considered by the Agency when making a final regulatory determination on the four waste streams. Comments will be accepted and considered only on the new information specifically identified under the above docket number. EPA will not consider comments on the 1988 Report to Congress and data and analyses presented therein, except to the extent that commenters believe they are affected by the new information.

Dated: February 5, 1993.

Walter W. Kovalick, Jr.

Acting Assistant Surgeon General, USPHS, Acting Assistant Administrator,  
Office of Solid Waste and Emergency Response.  
[FR Doc. 93-3398 Filed 2-11-93; 8:45 am]

BILLING CODE 6560-50-P